

Market Bulletin

Ref: Y5099

Title Australia – changes to the administration and application of Goods and Services Tax (GST) on Lloyd's business

Purpose The purpose of the bulletin is to advise Lloyd's underwriters, Australian Coverholders, Lloyd's brokers and other intermediaries of arrangements to process GST in relation to Lloyd's insurance business.

Type Event

From Nick Marman, Senior Manager Indirect Tax, Tax Department, Finance.
Direct Tel: +44 (0) 20 7327 6727 Email: nick.marman@lloyds.com

Date 1 June 2017

Deadline Effective from 1 July 2017

Related links

Purpose

Further to the item on Crystal (lloyds.com) published in January 2017 this bulletin sets out the arrangements for processing Australian GST due on Lloyd's Australian insurance business. The bulletin should be read in conjunction with Crystal content and guidance issued by the Australian Tax Office (ATO) and should not be treated as a complete guide to Australian GST.

Background

In 2015 the Australian Government announced changes to GST legislation to address the non-taxation of certain consumer transactions. These changes required some non-Australian resident businesses that provide services to Australian resident consumers to charge GST on their supplies.

As a result Lloyd's underwriters have an obligation to charge and bring to account GST. This bulletin sets out the arrangements on how GST on Lloyd's business is to be administered.

The changes are effective from 1 July 2017 and directly impact all taxable insurance contracts incepting on or after 1 July 2017. GST is also due on additional premiums with an effective date on or after 1 July 2017 irrespective of the inception date of the original policy. GST will only be claimable in respect of return premiums where the tax was charged on the original premium and an appropriate credit note has been issued to the insured.

GST is a cost borne by the insured and is charged at a rate of 10% on the gross premium invoiced to the insured. The method of administering GST will depend on the route of the business into Lloyd's.

Administration of GST - Australian coverholder business

In respect of business bound under a delegated authority held by an Australian resident coverholder, GST should be charged and accounted for in accordance with arrangements agreed with the Lloyd's underwriter and the ATO guidance

Lloyd's underwriters are required to have an agreement formalising the coverholder's responsibility to administer GST on Lloyd's business they bind and should ensure that the LSW649E (Australian Binding Authority Endorsement) has been amended to include the wording set out in the appendix to this bulletin.

Charging GST is a condition of the delegated authority and is not optional and covers all business, including policies issued to GST registered insureds.

The revised legislation has not altered Australian coverholders' GST obligations as under the original legislation they were responsible for the administration of GST due on Lloyd's business.

GST may be recovered on expenses and claims costs in accordance with the relevant provisions of the Australian GST Act. For further information coverholders should consult the ATO's guidance.

Administration of GST - all other business not via an Australian coverholder

In respect of all other business, i.e. that written via an Australian resident broker, a non-Australian resident coverholder or on any other basis, with effect from the 1 July 2017 GST must be charged on taxable supplies of insurance made to non-GST registered insureds, i.e. consumers. If the insured is GST registered the supply should be zero-rated, i.e. no GST charged.

Where GST is charged it should be passed to Lloyd's underwriters with the premium and will be settled centrally by Lloyd's tax department. In relation to this business and zero-rated business there may be a right to recover GST on claims and expenses.

Information on how GST may be recovered on expenses and claims will be advised separately to managing agents writing impacted business.

Further guidance

In addition further details can be found on the ATO's website and on Crystal. Please note that the guidance provided by Lloyd's is not meant to replace that provided by the ATO.

If you have any queries please contact: Mary O'Brien on 020 7327 6852 / email: mary.obrien@lloyds.com or Nick Marman on 020 7327 6727 / email: nick.marman@lloyds.com

Appendix – Amendment to LSW649E (Australian Binding Authority Endorsement)

8. Taxes: It is a condition of the Agreement that the Coverholder shall:

- (a) where it is located in Australia and binds insurance in Australia on behalf of Lloyd's underwriters, agree;
 - (i) that the supply of insurance is connected with Australia (and provisions in the Australian GST Act to disconnect that supply will not apply); and
 - (ii) to apply GST to the taxable supply of insurance in accordance with the relevant provisions of the Australian GST Act and in accordance with arrangements published by Lloyd's and accordingly be responsible for accounting for GST to the ATO; and
 - (iii) to issue to all insured parties a tax invoice which will disclose the amount of GST applicable to that supply; and
 - (iv) to comply with this clause 8 for the period it remains a Coverholder or until the parties agree separately to terminate the agreement in this clause in writing.
- (b) if it binds insurance subject to stamp duty, withholding (non-resident) tax and fire services levies, be responsible for administering them in accordance with the relevant provisions of Australian tax law and arrangements published by Lloyd's.
- (c) where the Coverholder is located in a territory outside of Australia it shall ensure that the taxes and charges referred to in this Clause 8 are administered in accordance with the arrangements published by Lloyd's.

In this Clause 8, a word or expression defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) ("Australian GST Act") has the meaning given to it in that Act. A reference to "connected with Australia" means "connected with the Indirect Tax Zone" as that term is defined in the GST Act.

For the avoidance of doubt Australian resident Coverholders are expected to charge and bring to account GST on supplies of insurance they bind on behalf of Lloyd's underwriters.